

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ALVAREZ MILLINE, as Personal
Representative of the ESTATE of
ALVAREZ DEMETRIE MILLINE, Deceased

Plaintiff,

Case No. 17-cv-12723
Hon. Matthew F. Leitman

v.

CORRECTCARE SOLUTIONS, LLC *et al.*,

Defendants.

/

**ORDER REGARDING PLAINTIFF'S FORTHCOMING
MOTION FOR RECONSIDERATION**

During a hearing on June 25, 2021, the Court orally granted Plaintiff leave to file a motion for reconsideration of the Court's prior ruling granting summary judgment on Plaintiff's gross negligence claim. (*See* Opinion and Order Dated November 30, 2020, ECF No. 117, PageID.3701-02.) When the Court granted leave, it identified a number of issues for the parties to address in the briefing on the motion.

Following the hearing, the Court concluded that there is another issue that should be addressed in the briefing. The issue is: Assuming *arguendo* that Plaintiff's gross negligence claim is not subject to dismissal on the ground that Plaintiff failed to file an affidavit of merit pursuant to MCL §600.2912d, does the claim nonetheless

fail as a matter of law because it is not supported by competent expert medical testimony? In answering this question, the parties should assume that the Court will adhere to its earlier decision that the gross negligence claim sounds in medical malpractice. Given that prior ruling by the Court, the parties should address (1) whether expert testimony is necessary to support a medical malpractice claim like the one asserted by Plaintiff, (2) whether Dr. Elder, a board certified cardiologist, is a competent witness under Mich. Comp. Laws §600.2169(1)(c) concerning the standard of care in a medical malpractice claim against Defendant Olagbaiye, a nurse practitioner, and (3) if Dr. Elder is not a competent witness in support of the medical malpractice claim against Defendant Olagbaiye, does the claim necessarily fail as a matter of law on the record before the Court? The parties should address these issues in addition to the other issues identified by the Court on the record during the hearing.

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: June 28, 2021

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on June 28, 2021, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

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